

NO. 23488

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Interest of

JANE DOE

Born on June 20, 1983

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NO. 84-41184)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson,
Nakayama, Ramil, and Acoba, JJ.)

Father-Appellant appeals from an April 14, 2000 order of the Family Court of the First Circuit (the court), awarding foster custody of Jane to Appellee Department of Human Services of the State of Hawai'i (DHS).¹ The "family court possesses wide discretion in making its decisions and those decisions will not be set aside unless there is a clear abuse of discretion." In re Doe, 77 Hawai'i 109, 115, 883 P.2d 30, 36 (1994) (citing Fujikane v. Fujikane, 61 Haw. 352, 355, 604 P.2d 43, 45 (1979) (internal quotation marks and citation omitted)).

There was no clear abuse of discretion in this case. The record establishes substantial evidence was adduced with respect to sexual abuse of Jane. DHS social worker Asiana Dela Cruz provided expert testimony that linked Jane's behavior to

¹ For purposes of preserving confidentiality, Father-Appellant is referred to as "Father," and the subject child is referred to as "Jane."

sexual abuse. Second, the record establishes substantial evidence of other physical and psychological harm and threat thereof to Jane. Assuming arguendo, the court should have granted Father's oral motion to have Jane appear as a witness at the adjudication hearing, there was substantial evidence provided by sources other than Jane verifying the harm and threat of harm to her were she to continue to live with Father. Accordingly, Father was not unfairly prejudiced because Jane did not appear at trial, and the court did not abuse its discretion in awarding foster custody to DHS.

The court's April 14, 2000 order granting foster custody of Jane to DHS is affirmed.

DATED: Honolulu, Hawai'i, May 25, 2001.

On the briefs:

Herbert Y. Hamada for
Father-Appellant.

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Mary Anne Magnier,
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General, for Department
of Human Services-Appellee.